

1 SIMON ARON (CA State Bar No. 108183)  
saron@wrslawyers.com  
2 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
11400 West Olympic Boulevard, 9<sup>th</sup> Floor  
3 Los Angeles, California 90064-1582  
Telephone: (310) 478-4100  
4 Facsimile: (310) 479-1422

5 Attorneys for Creditor WOLF FAMILY  
SERIES LP d/b/a SERIES III, WOLF  
6 FAMILY SERIES LP d/b/a SERIES VII;  
ONTARIO ENTERPRISES OF THE WOLF  
7 FAMILY SERIES LP

8  
9 **UNITED STATES BANKRUPTCY COURT**  
10 **SOUTHERN DISTRICT OF NEW YORK**

11 In re: Case No. 18-23538-RDD  
12 SEARS HOLDINGS CORPORATION, (Jointly Administered)  
13 Debtor.  
14

15  
16 **OBJECTION OF WOLF FAMILY SERIES LP D/B/A SERIES III, WOLF FAMILY**  
17 **SERIES LP D/B/A SERIES VII, ONTARIO ENTERPRISES OF THE WOLF FAMILY**  
18 **SERIES LP TO SUPPLEMENTAL NOTICE OF CURE COSTS AND POTENTIAL**  
**ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED**  
**LEASES IN CONNECTION WITH GLOBAL SALE TRANSACTION**

19 Wolf Family Series LP d/b/a Series III, Wolf Family Series LP d/b/a Series VII,  
20 Ontario Enterprises of the Wolf Family Series LP (collectively “Wolf”) hereby files this  
21 objection (the “Objection”) to the *Supplemental Notice of Cure Costs and Potential*  
22 *Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection*  
23 *With Global Sale Transaction* [Docket No. 1774] (the “Supplemental Cure Notice”). In  
24 support of this Objection, Wolf states as follows:

25 **BACKGROUND**

26 1. Beginning on October 15, 2018 (the “Petition Date”) and continuing  
27 thereafter, the Debtors each filed a voluntary petition for relief under Chapter 11 of Title  
28 11 of the United States Code (the “Bankruptcy Code”).

1           2.       On November 19, 2018, the Court entered the *Order Approving Global*  
2 *Bidding Procedures and Granting Related Relief* [Docket No. 816] (the “Global Bidding  
3 Procedures Order”).<sup>1</sup>

4           3.       On November 26, 2018, the Court entered the *Final Order Approving (I)*  
5 *Procedures for Store Closing Sales and (II) Assumption of Liquidation Consulting*  
6 *Agreement* [Docket No. 876] (the “Store Closing Order”).

7           4.       On January 18, 2019, the Debtors filed *Notice of Cure Costs and Potential*  
8 *Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection*  
9 *With Global Sale Transaction* [Docket No. 1731] (the “Cure Notice”); and (b) the Global  
10 Sale Transaction as described and defined in the *Notice of Successful Bidder and Sale*  
11 *Hearing* [Docket No. 1730] (the “Successful Bidder Notice”).

12           5.       On January 23, 2019, the Debtors filed the Supplemental Cure Notice.  
13 Exhibit A to the Cure Notice identifies a purported “executory contract” with “Series VII  
14 of the Wolf Family” and no other information. *See*, Cure Notice, Exhibit B-1., p. 49, at  
15 No. 194, a true and correct copy of which is attached hereto as Exhibit “1”.

16           6.       On January 25, 2019, Wolf filed an Objection to the Cure Notice . Wolf  
17 (and specifically Wolf Family Series LP d/b/a Series VII) is a party to an unexpired  
18 sublease of real property with Debtors (the “Sublease”) for a portion of the real property  
19 leased by Debtors from Wolf (and specifically Wolf Family Series LP d/b/a Series III) (the  
20 “Master Lease”) and identified as Store #3483.

21                               **PRELIMINARY OBJECTIONS**

22           7.       The Master Lease is inescapably intertwined with the Sublease and one  
23 cannot be assumed or assigned without the other.

24           8.       The Lease and Sublease are both in default and Debtors are in breach of the  
25 terms thereof by virtue of their failure to maintain and secure the real property and Store  
26 \_\_\_\_\_

27           <sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the  
28 Global Bidding Procedures Order.

1 No. 3483 after closing operations on or about January 15, 2019. Store No. 3483 as well as  
2 the surrounding leased property were breached and a number of squatters took up  
3 residence thereon. Worse yet, repeated requests from Wolf to Debtors' counsel were  
4 ignored before and thereafter. Wolf was denied access to the leased premises for purposes  
5 of conducting an inspection and securing the property before the squatters broke in and  
6 took up residence. Wolf provided written notice of default under the Lease. *See*, Exhibit  
7 "2" hereto. Thereafter, Debtors' counsel continued to ignore Wolf requests and instead  
8 threatened Wolf with a violation of the automatic stay for declaring a post-Petition Date  
9 default under the Lease in light of the Debtors' post-Petition Date breaches. *See*, Exhibit  
10 "3" attached hereto.

11 9. Debtors are further in direct violation of the Store Closing Order. The Store  
12 Closing Order provides: "Debtors will keep each store premises and surrounding areas  
13 clear and orderly consistent with past practices." *Id.*, Exhibit 2. ¶ (m).

14 10. Wolf objects to the Proposed Cure Amounts set forth in the Supplemental  
15 Cure Notice. In order to assume and assign the Lease and Sublease, the Debtors or the  
16 Buyer must promptly cure all defaults. 11 U.S.C. §365(b)(1). The unpaid amounts  
17 actually owed by the Debtors to Wolf for post-petition damages, costs and fees are being  
18 still being fixed in light of the ongoing nature of Debtors' defaults. Wolf will amend this  
19 Objection as soon as those amounts become ascertainable. Wolf estimates these amounts  
20 at no less than \$25,000.00.

21 11. Wolf also objects to the Global Asset Transaction to the extent it includes an  
22 assumption or assignment of the Lease or Sublease without first complying with Section  
23 365(b)(1) of the Bankruptcy Code.

24 **RESERVATION OF RIGHTS**

25 12. Wolf continues to review the APA, the related pleadings, documents and  
26 information that have been filed with the Court. Wolf also continues to gather information  
27 regarding the extent of the damages caused by the Debtors' on-going post-Petition Date  
28 breaches so that it may amend its Objections. In addition, a number of other agreements,

1 pleadings and information has not yet been disclosed and may be disclosed or learned after  
2 the filing of this Objection. Accordingly, Wolf expressly reserves the right to amend,  
3 supplement, and/or modify this Objection and to file in the future additional appropriate  
4 pleadings.

5  
6 DATED: January 31, 2019

WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP

7  
8  
9 By: /s/ Simon Aron

10 SIMON ARON

11 Attorneys for Creditor WOLF FAMILY SERIES  
12 LP d/b/a SERIES III, ONTARIO ENTERPRISES  
13 OF THE WOLF FAMILY SERIES LP  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 I, Simon Aron, certify that on January 31, 2019, I caused a true copy of the  
3 following document(s) described as OBJECTION OF WOLF FAMILY SERIES LP  
4 D/B/A SERIES III, WOLF FAMILY SERIES LP D/B/A SERIES VII, ONTARIO  
5 ENTERPRISES OF THE WOLF FAMILY SERIES LP TO SUPPLEMENTAL NOTICE  
6 OF CURE COSTS AND POTENTIAL ASSUMPTION AND ASSIGNMENT OF  
7 EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH  
8 GLOBAL SALE TRANSACTION via transmission of Notice of Electronic Filing  
9 generated by CM/ECF on all parties of record, and on parties listed below as indicated.

10  
11 DATED: January 31, 2019

WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP

12  
13  
14 By: /s/ Simon Aron

15 SIMON ARON

16 Attorneys for Creditor WOLF FAMILY SERIES  
17 LP d/b/a SERIES III, ONTARIO ENTERPRISES  
18 OF THE WOLF FAMILY SERIES LP  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**

**VIA EMAIL**

I. Bid Notice Parties

a. Debtors

Rob Riecker: [rob.riecker@searshc.com](mailto:rob.riecker@searshc.com)

Luke Valentino: [luke.valentino@searshc.com](mailto:luke.valentino@searshc.com)

Moshin Meghji: [mmeghji@miiipartners.com](mailto:mmeghji@miiipartners.com)

General Counsel: [counsel@searshc.com](mailto:counsel@searshc.com)

b. Debtors' counsel

Ray Schrock, Esq.: [ray.schrock@weil.com](mailto:ray.schrock@weil.com)

Jacqueline Marcus, Esq.: [jacqueline.marcus@weil.com](mailto:jacqueline.marcus@weil.com)

Garrett A. Fail, Esq.: [garrett.fail@weil.com](mailto:garrett.fail@weil.com)

Sunny Singh, Esq.: [sunny.singh@weil.com](mailto:sunny.singh@weil.com)

c. Debtors' investment banker: [project.blue.rx@lazard.com](mailto:project.blue.rx@lazard.com)

II. Buyer Parties

a. Buyer

Kunal S. Kamlani: [kunal@eslinvest.com](mailto:kunal@eslinvest.com)

Harold Talisman: [harold@eslinvest.com](mailto:harold@eslinvest.com)

b. Counsel

Christopher E. Austin, Esq.: [caustin@cgsh.com](mailto:caustin@cgsh.com)

Benet J. O'Reilly, Esq.: [boreilly@cgsh.com](mailto:boreilly@cgsh.com)

Sean A. O'Neal, Esq.: [soneal@cgsh.com](mailto:soneal@cgsh.com)

III. Consultation Parties

a. Bank of America

Paul Leake, Esq.: [Paul.Leake@skadden.com](mailto:Paul.Leake@skadden.com)

Simla Elberg, Esq.: [Shana.Elberg@skadden.com](mailto:Shana.Elberg@skadden.com)

George Howard, Esq.: [George.Howard@skadden.com](mailto:George.Howard@skadden.com)

b. Wells Fargo Bank

Kevin J. Simard, Esq.: [ksimard@choate.com](mailto:ksimard@choate.com)

Jonathan D. Marshall, Esq.: [jmarshall@choate.com](mailto:jmarshall@choate.com)

c. Committee

Ira S. Dizengoff, Esq.: [idizengoff@akingump.com](mailto:idizengoff@akingump.com)

Philip C. Dublin, Esq.: [pdublin@akingump.com](mailto:pdublin@akingump.com)

Abid Qureshi, Esq.: [aqureshi@akingump.com](mailto:aqureshi@akingump.com)

Sara L. Brauner, Esq.: [sbrauner@akingump.com](mailto:sbrauner@akingump.com)

**VIA FIRST CLASS MAIL**

Transform Holdco, LLC  
c/o ESL Partners, Inc.  
Attention: Kunal S. Kamlani and Harold Talisman  
1170 Kane Concourse, Suite 200  
Bay Harbor Islands, FL 33154

Sears Holding Corporation  
3333 Beverly Road  
Hoffman Estates, IL 60179

Weil, Gotshal & Manges LLP  
Attention: Ray C. Schrock, P.C.,  
Ellen J. Odoner, Gavin Westerman and Sunny Singh  
767 Fifth Avenue  
New York, NY 10153

Clearly Gottlieb Steen & Hamilton LLP  
Attention: Christopher E. Austin,  
Benet J. O'Reilly and Sean A. O'Neal  
One Liberty Plaza  
New York, NY 10006